

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
FORT WORTH DIVISION

EXXON MOBIL CORPORATION,	§	
	§	
	§	
Plaintiff,	§	
	§	
v.	§	NO. 4:16-CV-469-K
	§	
ERIC TRADD SCHNEIDERMAN,	§	
Attorney General of New York, in his	§	
official capacity, and MAURA TRACY	§	
HEALEY, Attorney General of	§	
Massachusetts, in her official capacity.	§	
	§	
Defendants.	§	

**DEFENDANT NEW YORK ATTORNEY GENERAL'S
MOTION TO QUASH AND FOR A PROTECTIVE ORDER**

Defendant, Eric T. Schneiderman, in his official capacity as the New York Attorney General, by and through counsel, hereby moves to quash discovery and for a protective order pursuant to Rule 26 of the Federal Rules of Civil Procedure.

1. On November 17 , 2016, the New York Office of the Attorney General ("NYOAG") received the following from Exxon Mobil Corporation ("Exxon"):

- Plaintiff Exxon Mobil Corporation's First Request to Defendant Eric Schneiderman for the Production of Documents;
- Plaintiff Exxon Mobil Corporation's First Set of Requests for Admission to Defendant Eric Schneiderman;
- Plaintiff Exxon Mobil Corporation's First Set of Interrogatories to Defendant Eric Schneiderman;
- Plaintiff Exxon Mobil Corporation's Notice of Deposition of Monica Wagner, Deputy Chief of the Environmental Protection Bureau of the Office of the Attorney General of New York at 10:00 am on November 21, 2016;

- Plaintiff Exxon Mobil Corporation's Notice of Deposition of Lemuel Srolovic, Bureau Chief of the Environmental Protection Bureau of the Office of the Attorney General of New York at 10:00 am on November 28, 2016; and
- Plaintiff Exxon Mobil Corporation's Notice of Deposition of Eric Schneiderman, Attorney General of the New York, at 10:00 am on December 5, 2016.

2. On November 18, 2016, the NYOAG received from Exxon the following Notices of Deposition "in lieu of" its November 17, 2016 Deposition Notices of Monica Wagner and Lemuel Srolovic:

- Plaintiff Exxon Mobil Corporation's Notice of Deposition of Monica Wagner, Deputy Chief of the Environmental Protection Bureau of the Office of the Attorney General of New York at 10:00 am on December 9, 2016;
- Plaintiff Exxon Mobil Corporation's Notice of Deposition of Lemuel Srolovic, Bureau Chief of the Environmental Protection Bureau of the Office of the Attorney General of New York at 10:00 am on December 12, 2016.

3. On November 29, Exxon withdrew its Notice of Deposition of Eric Schneiderman, Attorney General of the New York.

4. This Court should quash all of Exxon's outstanding discovery requests (*supra* ¶¶ 2-3) (together, "Discovery Requests") for several reasons.

5. First, discovery is not necessary to resolve the NYOAG's Motion to Dismiss Exxon's First Amended Complaint, because the absence of personal jurisdiction is dispositive, and burdensome discovery violates the principles of *Younger v. Harris*, 401 U.S. 37 (1971).

6. Second, the Discovery Requests were issued in violation of Rule 26(d) of the Federal Rules of Civil Procedure.

7. Third, the Discovery Requests seek privileged, protected testimony, because the deposition of the Attorney General and Senior NYOAG attorneys would necessarily elicit

privileged information, and the document requests and written discovery plainly seek privileged information.

PRAYER

For those reasons and those set out in the Memorandum of Law in Support of the New York Attorney General's Motion to Quash and for a Protective Order, the Court should quash Exxon's Discovery Requests and issue a protective order, prohibiting the taking of discovery from the NYOAG pending a determination of its Motion to Dismiss.

Respectfully submitted,

ERIC T. SCHNEIDERMAN
Attorney General of New York

By his attorneys:

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**pro hac vice application forthcoming*

s/ Pete Marketos
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Dated: December 5, 2016

CERTIFICATE OF SERVICE

The undersigned hereby certifies that, on December 5, 2016, all counsel of record who are deemed to have consented to electronic service are being served with a copy of this document via the Court's CM/ECF system. Any other counsel of record will be served in accordance with the Federal Rules of Civil Procedure.

s/ Pete Marketos
Pete Marketos

CERTIFICATE OF CONFERENCE

On December 5, 2016, Counsel for Movants spoke with counsel for Plaintiff Exxon Mobil Justin Anderson and discussed the merits of the requested relief. Despite that discussion, no agreement was reached and Plaintiff opposes the relief sought by way of this motion.

s/ Pete Marketos
Pete Marketos